

HOUSE BILL No. 1248

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-14-1.5-6.1.

Synopsis: Executive sessions. Provides that actions taken by a governing body in an executive session are limited to those permitted by the enumerated instances for which executive sessions may be held under the open door law.

Effective: July 1, 2004.

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January 15, 2004, read first time and referred to Committee on Appointments and Claims.

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Introduced

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

HOUSE BILL No. 1248

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 5-14-1.5-6.1, AS AMENDED BY P.L.200-2003,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2004]: Sec. 6.1. (a) As used in this section, "public official"
4 means a person:

- 5 (1) who is a member of a governing body of a public agency; or
6 (2) whose tenure and compensation are fixed by law and who
7 executes an oath.

8 (b) Executive sessions may be held only in the following instances:

- 9 (1) Where authorized by federal or state statute.
10 (2) For discussion of strategy with respect to any of the following:
11 (A) Collective bargaining.
12 (B) Initiation of litigation or litigation that is either pending or
13 has been threatened specifically in writing.
14 (C) The implementation of security systems.
15 (D) The purchase or lease of real property by the governing
16 body up to the time a contract or option to purchase or lease is
17 executed by the parties.



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However, all such strategy discussions must be necessary for competitive or bargaining reasons and may not include competitive or bargaining adversaries.

(3) For discussion of the assessment, design, and implementation of school safety and security measures, plans, and systems.

(4) Interviews with industrial or commercial prospects or agents of industrial or commercial prospects by the department of commerce, the Indiana development finance authority, the film commission, the Indiana business modernization and technology corporation, or economic development commissions.

(5) To receive information about and interview prospective employees.

(6) With respect to any individual over whom the governing body has jurisdiction:

(A) to receive information concerning the individual's alleged misconduct; and

(B) to discuss, before a determination, the individual's status as an employee, a student, or an independent contractor who is:

(i) a physician; or

(ii) a school bus driver.

(7) For discussion of records classified as confidential by state or federal statute.

(8) To discuss before a placement decision an individual student's abilities, past performance, behavior, and needs.

(9) To discuss a job performance evaluation of individual employees. This subdivision does not apply to a discussion of the salary, compensation, or benefits of employees during a budget process.

(10) When considering the appointment of a public official, to do the following:

(A) Develop a list of prospective appointees.

(B) Consider applications.

(C) Make one (1) initial exclusion of prospective appointees from further consideration.

Notwithstanding IC 5-14-3-4(b)(12), a governing body may release and shall make available for inspection and copying in accordance with IC 5-14-3-3 identifying information concerning prospective appointees not initially excluded from further consideration. An initial exclusion of prospective appointees from further consideration may not reduce the number of prospective appointees to fewer than three (3) unless there are fewer than

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1 three (3) prospective appointees. Interviews of prospective
2 appointees must be conducted at a meeting that is open to the
3 public.

4 (11) To train school board members with an outside consultant
5 about the performance of the role of the members as public
6 officials.

7 (12) To prepare or score examinations used in issuing licenses,
8 certificates, permits, or registrations under IC 15-5-1.1 or IC 25.

9 (c) A final action must be taken at a meeting open to the public. **In
10 addition, actions taken by a governing body in an executive session
11 are limited to those permitted by the enumerated instances for
12 which executive sessions may be held under subsection (b).**

13 (d) Public notice of executive sessions must state the subject matter
14 by specific reference to the enumerated instance or instances for which
15 executive sessions may be held under subsection (b). The requirements
16 stated in section 4 of this chapter for memoranda and minutes being
17 made available to the public is modified as to executive sessions in that
18 the memoranda and minutes must identify the subject matter
19 considered by specific reference to the enumerated instance or
20 instances for which public notice was given. The governing body shall
21 certify by a statement in the memoranda and minutes of the governing
22 body that no subject matter was discussed in the executive session
23 other than the subject matter specified in the public notice.

24 (e) A governing body may not conduct an executive session during
25 a meeting, except as otherwise permitted by applicable statute. A
26 meeting may not be recessed and reconvened with the intent of
27 circumventing this subsection.

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